

CHAPTER 1:

OVERVIEW OF MANUAL

**Juvenile Probation Officer and Caseworker
Self-Instructional Manual**

JUVENILE PROBATION OFFICER AND CASEWORKER SELF-INSTRUCTIONAL MANUAL

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MANUAL CONTENTS

Chapters 1-12 of this manual describe the laws, court rules, and procedures used in juvenile delinquency cases and personal protection order cases involving a minor, and addresses cases in which a juvenile may be tried and sentenced as an adult, either by designation in the family division or by waiver to the criminal division. Chapters 13-21 focus on practical issues a juvenile probation officer and/or caseworker should know.

Note: Throughout this manual, “family division” is used to describe the family division of the circuit court, and “criminal division” is used to refer to the division of the circuit court that normally handles felony offenses committed by adults.



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DEFINITIONS

Important Definitions (See MCR 3.903 *et seq.*)

Juvenile: Means a minor alleged or found to be within the jurisdiction of the court for having committed an offense.

Juvenile Code: Means Public Act 54 of 1944, MCL 721A.1 *et seq.*, as amended.

Offense by a Juvenile: an act that violates a criminal statute or ordinance or a status offense.

Minor: Means a person under the age of 18, and may include a person of age 18 or older concerning whom cases are commenced in the juvenile court and over whom the juvenile court has continuing jurisdiction pursuant to MCL 712A.2”

Parent: Means the mother, the father, or both MCR 3.903(A)(17).

Legal Custodian: Means an adult who has been given legal custody of a minor by order of a circuit court in Michigan or a comparable court of another state. MCR 3.903(A)(13).

Guardian: Means a person appointed as guardian of a child by a court (in Michigan or another state). MCR 3.903(A)(11).

Party: In a delinquency proceeding, means the petitioner and the juvenile.

Officer: Means a government official with the power to arrest or any other person designated by the court to apprehend, detain, or place a minor. MCR 3.903(A)(16).



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Case: Means an action initiated in the family division of circuit court by:

- (a) submission of an original complaint, petition, or citation;
- (b) acceptance of transfer of an original action from another court or tribunal; or
- (c) filing or registration of a foreign judgment or order.”

Status offender: Refers to juveniles who are alleged to fall within the exclusive original jurisdiction of the Family division pursuant to MCL 712A.2(a)(2)-(4). Status offenders are juveniles under 17 years of age who are found within the county and who meet any of the following requirements:

Runaways: The juvenile has deserted his or her home without sufficient cause and the court finds on the record that the juvenile has been placed or refused alternative placement or the juvenile and the juvenile’s parent, guardian, or custodian have exhausted or refused family counseling.

Incorrigibles: The juvenile is repeatedly disobedient to the reasonable and lawful commands of his or her parents, guardian, or custodian and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.

Truants: One who is willfully and repeatedly absent from school or other learning program, repeatedly violates rules/regulations of the school or other learning program, and the court finds that the juvenile, the juvenile’s parent, guardian, or custodian, and school officials or learning program personnel have met on the juvenile’s educational problems and counseling and alternative agency help has been sought.



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Preliminary Inquiry: Means an informal review by the court to determine appropriate action on a petition. MCR 3.903(A)(22).

Diversion: The placement that occurs when a formally recorded apprehension is made by a law enforcement agency for an act by a minor which, if a petition were filed with the court, would bring the minor within the formal jurisdiction of the court under MCL 712A.2(a).

Instead of a petition being filed or authorized, however, either of the following occurs:

“(i) the minor is released into the custody of his or her parent, guardian, or custodian and the investigation is discontinued, or

“(ii) the minor and the minor’s parent, guardian, or custodian agree to work with a person or public or private organization or agency that will assist the minor and the minor’s family in resolving the problem that initiated the investigation.” MCL 722.822(c)(i)–(ii); MCL 722.823(1)(a)–(b).

Consent Calendar

If the court receives a petition, citation, or appearance ticket, and it appears “that protective and supportive action by the court will serve the best interest of the juvenile and the public,” the court may proceed on the consent calendar without authorizing a petition to be filed. No case may be placed on the consent calendar unless the juvenile and the parent, guardian, or legal custodian agree to have the case placed on the consent calendar. The court may transfer a case from the formal calendar to the consent calendar at any time before disposition. MCR 3.932(C).



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Petition Authorized to be Filed: Refers to written permission by the court to file a petition containing allegations against the juvenile. MCR 3.903(A)(20).

Formal Calendar: If the case is placed on the formal calendar, the court will conduct a formal adjudicative hearing and, if the juvenile is found responsible for the offense, a dispositional hearing. In addition, a court may “take a plea of admission or no contest under advisement” and later dismiss the case if the juvenile complies with the court’s directives.

Adjudication: The determination by the court that the juvenile has committed the offense. It is akin to the finding of guilt in an adult proceeding.

Disposition: Means the judgment of the court following adjudication. It is akin to “sentencing” in an adult proceeding.

The disposition of a juvenile who has committed an offense that would be a criminal offense if committed by an adult, is governed by the Juvenile Code (MCL 712A.18), which states that after adjudication the court may enter one or more orders concerning a juvenile, including:

1. A warning and dismissal;
2. Probation;
3. Commitment to, or placement in, a public or private institution;
4. Placement in a juvenile boot camp;
5. A civil fine in the amount of the civil or penal fine provided by the ordinance or law; and
6. Ordering a parent to participate in treatment. MCL 712A.18(1).



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DEFINITIONS

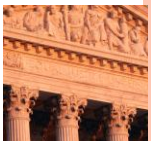
Disposition *(continued)*

Historically, juvenile dispositions have emphasized rehabilitation rather than punishment. Currently, Michigan law reflects in part this emphasis.

MCR 3.902(B)(1)-(2) state as follows:

“The court shall ensure that each minor coming within the jurisdiction of the court shall:

- (1) receive the care, guidance, and control, preferably in the minor’s own home, that is conducive to the minor’s welfare and the best interests of the public; and
- (2) when removed from parental control, be placed in care as nearly as possible equivalent to the care that the minor’s parents should have given the minor.”



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Confidential File means: That part of a file made confidential by statute or court rule, and includes:

- (i) diversion records. MCL 722.821 *et seq.*;
- (ii) the separate statement about known victims of juvenile offenses as required by the Crime Victim's Rights Act. MCL 780.751 *et seq.*;
- (iii) the testimony taken during a closed proceeding. MCR 3.925(A)(2); MCL 712A.17(7);
- (iv) dispositional reports made pursuant to MCR 3.943(C)(3) and 3.973(E)(4);
- (v) fingerprinting material required to be maintained. MCL 28.243;
- (vi) reports of sexually motivated crimes. MCL 28.247;
- (vii) test results of those charged with certain sexual offenses or substance abuse offenses. MCL 333.5129; and
- (viii) The "Social File."*



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Confidential File (*continued*)

Petitions that the court has not authorized for filing do not fall within the definition of “records” in MCR 3.903(A)(24)* and are therefore “confidential files.”

*Contents of the **Social File**: Includes materials such as:

- (i) youth and family record fact sheet;
- (ii) social study;
- (iii) reports (such as dispositional, investigative, laboratory, medical, observation, psychological, psychiatric, progress, treatment, school and police reports);
- (iv) Department of Human Services (DHS) records;
- (v) correspondence; and
- (vi) victim statements.

Note: No provision of the Juvenile Code makes confidential a juvenile probation or court officer’s file. A juvenile probation or court officer’s file may contain case notes and copies of records whose confidentiality is protected by other law. See MCL 791.229, which contains a “probation officer’s privilege,” but which is only applicable to Department of Corrections probation officers.



DEFINITIONS

Public ward: A youth accepted for care by a youth agency who is at least 12 years of age when committed to the youth agency by the . . . family division of circuit court. MCL 803.302(d).

County juvenile agency: Applies to Wayne County and is defined in the “County Juvenile Act,” The act allows a “county juvenile agency” to provide services to juveniles “within or likely to come within” the family division’s jurisdiction of criminal offenses by juveniles and the criminal division’s jurisdiction over “automatically waived.” MCL 45.621 *et seq.*; MCL 803.302(a).

Firearm: Means any weapon from which a dangerous projectile may be propelled using explosives, gas, or air as a means of propulsion, except BB’s not exceeding .177 caliber. MCL 712A.18g(3); MCR 3.943(E)(7)(c). “Use” of a firearm is not defined in the statute or court rule.



The Two Types of Non-Criminal Cases Involving Juveniles

1. Delinquency and Status Offense Cases

Delinquency cases: Involve juveniles under age 17 charged with a violation of a criminal law or ordinance, or with a status offense. If the juvenile is found responsible for the offense, the court may order a juvenile disposition, such as placing the juvenile on probation or committing the juvenile to the custody of the state.

Procedural Options in Delinquency Cases

The family division has several options when a petition is filed in a delinquency proceeding. The court may:

- deny or dismiss the petition;
- direct that the parent, guardian, or legal custodian and juvenile appear so that the matter can be handled through further informal inquiry;
- without authorizing a petition to be filed, refer the matter to a public or private agency pursuant to the Juvenile Diversion Act;
- without authorizing a petition to be filed, proceed on the consent calendar; or
- after authorizing a petition to be filed, proceed on the formal calendar.

MCR 3.932(A)(1)-(5) (preliminary inquiries); MCR 3.935(B)(3) (preliminary hearings).



The Two Types of Non-Criminal Cases Involving Juveniles

1. Delinquency and Status Offense Cases *(continued)*

Status Offense cases: Are acts that are violations of law only when committed by a minor (running away from home without sufficient cause, incorrigibility, and truancy). Status offenses are governed wholly by the Juvenile Code. Michigan Court Rules include status offenders within the definition of “delinquency proceeding,” however there are important differences between the two. For example, a status offender may only be placed in a secure (locked) facility in limited circumstances.

2. Minor Personal Protection Order Cases

Personal Protection Orders (PPOs): Forbid abusive conduct and stalking by minors ten years old or older. A PPO may not be issued if the people involved (the petitioner and respondent) have a parent-child relationship and the child is an unemancipated minor. In such cases, a delinquency or child protective proceeding may be instituted.



The Three Additional Types of Cases Involving Juveniles Charged with Criminal Offenses: Designated, “Automatic” Waiver, and “Traditional” Waiver Cases

The three additional types of cases involving juveniles charged with criminal offenses (less likely to be encountered by juvenile probation officers/ caseworkers) are:

1. Designated Cases

If a “specified juvenile violation” is alleged, the prosecuting attorney may designate the case for criminal trial. If a “nonspecified juvenile violation” is alleged, the family division judge must decide whether to designate the case for criminal trial. Following conviction, the court may sentence the juvenile as an adult, delay imposition of an adult sentence, or order a juvenile disposition.

2. “Automatic” Waiver Cases

Where a “specified juvenile violation” is alleged, “automatic” waiver allows the prosecuting attorney to vest jurisdiction in the criminal division rather than filing a petition in the family division. The juvenile is tried in criminal cases that occur within the criminal division. Following conviction, the juvenile may be sentenced as an adult or placed on probation and committed to public wardship. For some “specified juvenile violations,” an adult sentence is mandatory.



The Three Additional Types of Cases Involving Juveniles Charged with Criminal Offenses: Designated, “Automatic” Waiver, and “Traditional” Waiver Cases (continued)

3. “Traditional” Waiver Cases

Where a juvenile is charged with a felony, the prosecuting attorney may file a motion asking the family division to allow the juvenile to be tried as an adult in the criminal division. If the family division waives its delinquency jurisdiction over the juvenile, a criminal trial takes place in the criminal division. Following conviction, the juvenile must be sentenced as an adult.

